



ANTHONY J. STASKUNAS

STATE REPRESENTATIVE • 15th ASSEMBLY DISTRICT

SPEAKER PRO TEMPORE

AB 503 TESTIMONY

November 12, 2009

Assembly Committee on Criminal Justice

Good morning, Chairman Turner and committee members. Thank you for holding this hearing and allowing me to appear before you today to testify in support of Assembly Bill 503.

Under current law [§948.10(1)], whoever, for purposes of sexual arousal or sexual gratification, causes a child to expose their genitals or pubic area, or exposes their genitals or pubic area to a child is guilty of a Class A misdemeanor. However, current law [§948.11] also states that anyone that exposes a child to harmful material or harmful descriptions or narrations (i.e. pornographic material) is guilty of a Class I felony. This discrepancy means that individuals that expose children to pornographic material are subject to lesser penalties than individuals that expose their genitals to a child.

There is no question that both of these crimes involve disturbing actions that endanger children, unfortunately they are not treated the same when it comes to the punishment of these crimes. In an effort to address this sentencing loophole, AB503 would make it a Class I felony for anyone at least 17 years of age to expose their genitalia or pubic region for the purposes of sexual arousal or gratification to a minor.

This discrepancy in the statutes was first brought to the attention of the Legislature last session when fellow committee member Representative Kleefisch introduced 2007 Assembly Bill 913. In his testimony on AB913, Rep. Kleefisch informed committee members that he had introduced the bill in response to a conversation that he had with a detective with the Oconomowoc Police Department. This detective shared a story about an individual who, on numerous occasions, had exposed himself to children on elementary school grounds, as well as other locations throughout the city. While this individual was arrested, he could only be charged with misdemeanors, with the majority of his sentence to be served with work release privileges and or probation.

While last session AB913 passed unanimously out of this committee and passed the State Assembly on a voice vote, this bill did not receive a public hearing in the Senate. I am hopeful that with the strong bipartisan support that AB503 has in both the Assembly and the Senate that this important piece of legislation will pass both houses and make its way onto Governor Doyle's desk.

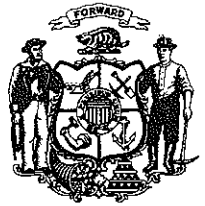
In conclusion, I would like to thank Chairman Turner and the committee members for their time and consideration of this proposal. I hope that you will bring AB503 forward for a vote and recommend its passage by the full Assembly.

I am happy to answer any questions that you may have.



JOEL KLEEFISCH

STATE REPRESENTATIVE



2009 Assembly Bill 503

- Testimony of Representative Joel Kleefisch -

In late 2007, Detective Andrew Rich, of the Oconomowoc Police Department, contacted me to make me aware of a startling loophole in current law. Detective Rich told me that the case involved an individual who was exposing himself to young children on elementary school grounds, as well as in other places. According to Detective Rich, the man said he was exposing himself in order to shock the children. Though arrested, the suspect could only be charged with misdemeanors, with the majority of his sentence to be served with work release privileges and or probation.

The startling loophole that was discovered is the fact that under current law if an adult shows a minor person a picture or photocopy of genitalia for the purposes of sexual gratification, that adult could be found guilty of a Class I felony. However, if an adult exposes his or her genitalia to a minor person for the purposes of sexual gratification, the adult could be found guilty of only a misdemeanor.

AB 503 would change statutes so that regardless if an adult shows a picture of genitalia or exposes their genitalia to a minor person, both crimes could be considered a felony when prosecuted.

AB 503 has bipartisan support in both houses of the legislature and last session, an almost identical version of this legislation passed the Assembly committee on Criminal Justice unanimously. At that time, some committee members raised concerns whether the legislation would have unintended consequences of charging children with a felony for this crime. The bill before you today incorporates those concerns by maintaining current law, a misdemeanor penalty, if the person charged with exposure is a child when the violation occurs.

While AB 503 would require that if a suspect is found guilty of this crime and a felony conviction is sentenced, the guilty party would be required to submit a DNA sample to the state crime laboratory, after speaking with Legislative Council as well as checking with the Department of Corrections, the guilty party would not automatically be placed on the state's sex offender registry.

I believe that current law of a misdemeanor penalty for the crime of exposure is not adequate because if an individual is willing to expose himself or herself to a minor for sexual gratification, it is very likely that this person is going to take the next step when the act of exposure no longer satisfies them. AB 503 is intended to prevent that next step which could potentially involve physically touching a victim, child enticement, kidnapping or sexual assault.

In closing, AB 503 simply seeks to protect our children by closing a loophole in state law. Strengthening our laws in common sense ways to better prosecute people who would harm children while helping those in law enforcement is a win for Wisconsin families.